

# **Universal Service for Americans Act or USA Act**

*Section 1. Short title.*

## TITLE I—CONTRIBUTIONS TO UNIVERSAL SERVICE

*Section 101. Stabilization of universal service funding.*

Subsection (a) would amend section 254(d) of the Communications Act to expand the base of support for the universal service program.

New 254(d)(1)(A) would require communications service providers (providers of telecommunications, broadband service and IP-enabled voice service) to contribute to universal service.

New 254(d)(1)(B) would require the Commission to allocate contributions between such entities in a manner that is competitively and technologically neutral, and is specific, predictable and sufficient to preserve and sustain universal service. In addition, any methodology could not charge a particular service, transaction, or activity more than once for universal service collections under this section. This language would not preclude a service, transaction or activity from being assessed for both a Federal and a State universal service program.

New 254(d)(1)(C) would require the Commission to account for low volume users in setting its contribution mechanism. Proposed 254(d)(2)(A) would provide a de minimis exception such that if the contributions of a certain entity are so limited as to be de minimis they would not have to contribute.

New 254(d)(2)(B) would provide an exception for recipient's of the Lifeline Assistance Program.

New 254(d)(2)(C) would provide an exception for in-vehicle emergency communications.

New 254(d)(3)(A) would provide the Commission with flexibility to assess contributions on the basis of revenue, working phone numbers or any other identifier protocol or network connections, or network capacity.

New 254(d)(3)(B) would provide that the Commission may use more than one methodology provided in proposed 254(d)(3)(A) if no one methodology meets all of the goals of supporting universal service. In crafting its contribution methodology (including methodologies based on telephone numbers or end-user connections), the Commission should consider a particular services' relative use of the PSTN, subscribership levels, and receipt of universal service support, and shall not promulgate a methodology that would disproportionately impact lower revenue services or services with less reliance on the PSTN.

New 254(d)(3)(C) would provide the Commission with authority in connection with contribution assessments over the interstate, intrastate, and international portions of communications service.

New 254(d)(3)(D) would permit the Commission to provide a discount for residential group or family plans if it adopted a numbers based contribution mechanism.

New 254(d)(4) would state that providers of communications service are not exempt from contributing to universal service solely because they do not receive funds from universal service.

New 254(d)(5) would allow any entity that contributes to universal service to reflect the amount of the contribution on its billing statements, but would prohibit including administrative costs in such line item and would prohibit any separate delineation of any administrative costs.

New 254(d)(6) would define “broadband service”, “communications service”, “connection”, “IP-enabled voice service”, and “working phone numbers” and make a conforming amendment to section 254(b)(4).

New 254(f) would provide additional flexibility to States in administering State universal service programs. States would be permitted to assess the revenue, working phone numbers, successors on connections, capacity, or any combination thereof so long as the contribution methodology is specific, predictable, sufficient, and competitively and technologically neutral.

Subsection(b)(1) would hold the universal service funds outside of the budget of the United States, the Congressional budget, the Balanced Budget and Emergency Deficit Control Act of 1985 or any other State requiring budget sequesters.

Subsection (b)(2) would exempt the collections and disbursements of the universal service program from sections of title 31 of the United States Code.

Subsection (c) would require that universal service accounts be kept in accordance with generally accepted accounting principles for Federal agencies and in accordance with the U.S. Government Standard General Ledger. The subsection would limit the investment of universal service balances to Federal securities.

Subsection (d) would require the Commission to complete its rulemaking implementing proposed section 254(d) within 180 days. It is noteworthy that nothing in this section should be interpreted as precluding the Commission from taking a similar approach with respect to collecting telecommunications relay service funding.

Subsection (e) would provide a period of time for Congressional review before any new rules went into effect.

*Section 102. Modification of rural video service exemption.*

Subsection (a) would amend section 251(f)(1) to so that certain rural carriers could offer video service without losing the exemption provided by section 251(f)(1), but would require such carriers to interconnect.

Subsection (b) would extend the interconnection requirements of section 251 to 2 percent carriers that would otherwise be exempt.

*Section 103. Interconnection.*

New section 715(a) would give facilities based IP-enabled voice service providers the same rights duties and obligations as telecommunications carriers under section 251 and 252 of the Communications Act. The Commission would determine whether a provider is facilities based. The Commission shall apply this standard in a manner that ensures that only bona fide providers of services who are legitimately deploying facilities are able to take advantage of the provision, but should not use it to create barriers of entry for new providers who are deploying facilities. The section would also provide that telecommunications carriers cannot refuse traffic solely because it is IP-enabled. Similarly, providers would not be able to avoid paying compensation owed to other providers solely on the basis that the traffic is IP-enabled.

New section 715(b) would extend the rights, obligations and duties of sections 225, 255 and 710 to IP-Enabled voice service providers and manufacturers of IP-enabled voice service equipment.

New section 715(c) would require IP-enabled voice service providers to provide notice to customers with an emergency response system that the IP-enabled voice service could impact the functioning of their emergency response system and that they should follow-up with their emergency response system provider to ensure that the emergency response system is still functional.

New section 715(e) would clarify that this section does not impact state tax law.

New section 715(f) would define the terms “emergency response system”, “emergency response center”, and “IP-Enabled voice service”.

*Section 104. Treatment of substitute services under section 254(g).*

Proposed language would extend the requirements of section 254(g) to services that are effective substitutes for interexchange service.

## TITLE II—DISTRIBUTIONS FROM UNIVERSAL SERVICE

*Section 201. Encouraging broadband deployment.*

This section would require biennial reports on broadband deployment to the Commission and State Commissions detailing for each of its service areas: (1) the percentage of households to which it offers broadband service; (2) the percentage of households that

subscribe to broadband service;(3) the service plans and speeds at which broadband service is offered; (4) the types of technologies used in offering broadband service; and (5) any planned upgrade or rollout of broadband in the next 2 years. Proposed section

Subsection (b) would provide for protection of sensitive business information.

Subsection (c) would require the Commission to include the data in its section 706 reports.

*Section 202. Establishment of broadband account within universal service fund.*

New section 254A(a) would establish a broadband for unserved areas account to provide financial assistance for the deployment of broadband equipment and infrastructure in unserved areas. The account shall focus primarily on the initial deployment, but may provide some ongoing financial assistance for the first few years to ensure that a provider has time to gain subscribers. In determining whether to provide any continuing assistance, smaller carriers with 2 percent or fewer of the Nation's broadband connections to end users should be given preference; while providers with more than 2 percent of the Nation's broadband connections to end users should be presumed to not need continuing assistance.

New section 254A(b)(1) would require the Commission to establish rules implementing the broadband for unserved areas program and provides the Commission with guidance as to what its rules should cover.

New section 254A(b)(2) would clarify that wired, wireless and satellite broadband providers are eligible; and that satellite broadband CPE could be supported.

New section 254A(b)(3) would provide that the availability of satellite broadband service in an area where subscribership to such service is de minimis does not preclude an area from eligibility;

New section 254A(b)(4) would state that multiple areas within a State may be designated as unserved.

New section 254A(c) would limit the size of the fund to \$500 million per fiscal year; would specify that unused funds be applied to support section 254 generally; and that support be limited to the facilities based service provider per area.

New section 254A(d) would specify that section 410 of the Communications Act would not apply to this subsection.

New section 254A(e) would define broadband service and require the Commission to review the transmission speeds in the definition biannually.

New section 254(A)(f) would require the Commission to make annual reports to Congress about the sufficiency of funds.

*Section 203. Competitive neutrality principle.*

New 203 would amend section 254(b) of the Communications Act by adding a new paragraph that would state that universal service support mechanisms and rules should be competitively neutral. Such a provision would clarify that the Commission may not unfairly favor one technology or provider over another. For example, the Commission could not favor wireline providers over wireless providers.

*Section 204. Transition rules for modifications adversely affecting carriers.*

This section would require the Commission to adopt transition mechanisms of not less than 5 years in duration to alleviate any harmful affect of changes to the support provided to eligible communications carriers.

*Section 205. Eligible telecommunications carrier guidelines.*

This section amends section 214 of the Communications Act to set forth eligibility guidelines for eligible communications carriers.

Proposed section 214(e)(8)(A)(i) would require eligible communications carriers to commit to providing service throughout their designated service area to all customers.

Proposed section 214(e)(8)(A)(ii) would require eligible communications carriers to certify the timely provisioning of service so long as it can be done at a reasonable cost.

Proposed section 214(e)(8)(A)(iii) would require eligible communications carriers to submit a plan specifying proposed upgrades or network improvements that would be accomplished with universal service funding over the next two years.

Proposed section 214(e)(8)(A)(iv) would require eligible communications carriers to demonstrate their ability to remain functional in emergencies.

Proposed section 214(e)(8)(A)(v) would require eligible communications carriers to commit to meeting applicable consumer protection and service quality standards.

Proposed section 214(e)(8)(vi) would require eligible communications carriers to comply with annual reporting requirements.

Proposed section 214(e)(8)(B) would only apply the eligibility criteria on prospective basis.

Proposed section 214(e)(8)(C) would require that any application for status as an eligible communications carrier be acted on within 6 months. It is expected that the Commission would acknowledge the differences in service areas tied to existing plant and geographic

licenses between different providers. However, the Commission should not promulgate regulations or permit providers to cream skim customers within a given service area.

Proposed section 214(e)(8)(D) would make clarify the use of the term eligible communications carrier.

*Section 206. Primary line.*

Proposed section 214(e)(8) would prohibit the Commission from limiting universal service support to a single connection or primary line.

*Section 207. Phantom traffic.*

Proposed section 254(m)(1) would require any telecommunications service or IP-Enabled voice service to label its traffic with the identity of the originating provider, the calling and called parties, and such other information as the Commission deems appropriate. It would also require such information not be stripped during transport by any provider unless permitted by the Commission due to network limitations. In the case of IP traffic, it is not the Committee's intent that every packet be required to include the identification information so long as the information is conveyed within the whole of the packets transmitted.

Proposed section 254(m)(2) would require the Commission to establish rules and enforcement provisions for traffic identification within 180 days.

Proposed section 254(m)(3) would require the Commission to establish and enforce clear penalties, fines and sanctions.

*Section 208. Random audits.*

Proposed section 214(e)(10) would require random audits of all recipients of universal service funds regarding the receipt and use of universal service funds. With respect to eligible communications carriers, such audits would also examine its relative costs compared to similar carriers. The Commission would also be required to take appropriate remedial action with respect to improper use of universal service funds. The audits would be funded out of universal service program funds.

*Section 209. Integrity and accountability.*

Section 209 would require the Commission to— (1) ensure the integrity and accountability of all universal service programs established under section 254(h); and (2) within 180 days— (A) identify appropriate fiscal controls and accountability standards for all universal service programs; (B) define the administrative structure and processes of USAC; (C) create performance goals and measures for the schools and libraries program; (D) create performance goals for the schools and libraries program; and (E) establish appropriate enforcement actions for rule violations and actions taken in connection with the schools and libraries program. Specifically, the bill directs the Commission and the Universal Service Administrative Company to develop processes for measuring the progress of schools and libraries toward achieving advances in connectivity goals, such as speed and access. Such performance measures should reflect

the Universal Service support mechanism's longstanding mission to provide schools and libraries with access to an evolving level of advanced communications services and that the measures should acknowledge schools' and libraries' unique, individual advanced telecommunications requirements, which vary greatly by State, school or library. Such collection could occur as a component of the existing application submission process. Reporting progress as part of the application process would enable USAC to measure progress over time and meet the GAO Report 05-151 recommendation to collect data on private schools and libraries, as well.

Subsection (b) would statutorily ban vendors convicted of criminal fraud in connection with universal service from future participation in the program.

*Section 210. Improving effectiveness of rural healthcare support mechanism.*

This section would amend section 254(h) of the Communications Act.

Subsection (a)(1) would make formatting changes.

Subsection (a)(2) would add "deployment of reasonable infrastructure" as part of what carriers must provide upon request.

Subsection (a)(3) would clarify that carriers should be reimbursed promptly.

Subsection (a)(4) would provide that public or nonprofit healthcare providers in rural areas would be eligible for discounts and would amend the definition of "rural area".

Subsections (a)(5) and (6) would expand the list of health care providers.

Subsection (b) would clarify that nothing in this Act is meant to alter the amount of support or the means of distribution for the schools, libraries, rural health care, life-line, link-up and toll limitation programs.

Subsection (c) would require that the American Community Survey be expanded to collect Internet access information.

*Section 211. Telecommunications services for libraries.*

This section would amend section 254(h)(4) of the Communications Act to clarify that Native American libraries or library consortia are eligible to receive funds.

*Section 212. USF Support for Insular Areas.*

This section would establish additional universal service support for certain portions of Hawaii.